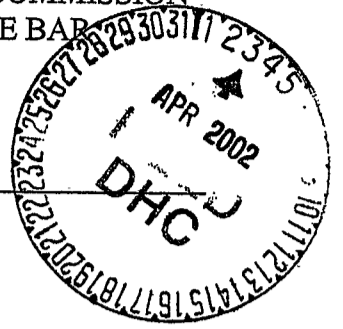


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WAKE COUNTY
NORTH CAROLINA

BEFORE THE DISCIPLINARY HEARING COMMISSION
OF THE NORTH CAROLINA STATE BAR
01 DHC 22



THE NORTH CAROLINA STATE BAR,
Plaintiff

v.

FRED B. CLAYTON, ATTORNEY
Defendant

ORDER OF DISBARMENT

THIS MATTER coming before the undersigned Chair of the Disciplinary Hearing Commission pursuant to 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0117(d) of the N.C. State Bar Discipline & Disability Rules upon the defendant's affidavit of Consent to Disbarment executed on the 28th day of March 2002 and filed with the undersigned on the 1st day of April 2002 and the undersigned finds from that Consent to Disbarment the following:

1. The defendant's Consent to Disbarment was freely and voluntarily rendered, was not the result of coercion or duress and the Defendant was fully aware of the implications of submitting this Consent to Disbarment.
2. The defendant is aware that a hearing has been scheduled respecting the allegations contained in the State Bar's complaint in this matter and that by submitting this Consent to Disbarment he is giving up the right to defend himself against those allegations at that hearing.
3. The defendant has admitted that the material facts contained in the State Bar's complaint are true.
4. The defendant has admitted that he is guilty of the misconduct alleged in the State Bar's complaint which is incorporated herein by reference.
5. The defendant's Consent to Disbarment was submitted because the defendant knows that he could not successfully defend against the allegations in the State Bar's complaint in this matter.

BASED UPON the foregoing findings, the undersigned concludes as follows:

(a) The affidavit of the defendant contained in his Consent to Disbarment meets the requirements of 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0117(d) of the N.C. State Bar Discipline & Disability Rules.

(b) The Consent to Disbarment filed by the defendant herein should be accepted.

(c) The facts as found constitute grounds for disbarment.

THEREFORE it is hereby ORDERED:

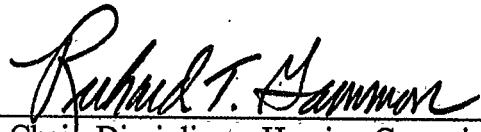
1. The defendant, Fred B. Clayton is hereby DISBARRED from the practice of law in North Carolina.

2. The defendant shall submit his license and membership card to the Secretary of the North Carolina State Bar no later than 30 days following service of this order upon the defendant.

3. The defendant shall pay the costs of this proceeding as assessed by the Secretary by June 1, 2002.

4. The defendant shall comply with all provisions of 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0124 of the N.C. State Bar Discipline & Disbarment Rules.

This the 3rd day of April, 2002.


Chair, Disciplinary Hearing Commission

NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
01 DHC 22

THE NORTH CAROLINA STATE BAR,
Plaintiff)
)
v.)
)
Fred B. Clayton, Attorney,)
Defendant)

COMPLAINT

Plaintiff, complaining of defendant, alleges and says:

1. Plaintiff, the North Carolina State Bar (hereafter "State Bar"), is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the Rules and Regulations of the North Carolina State Bar promulgated thereunder.

2. Defendant, Fred B. Clayton (hereafter "Clayton"), was admitted to the North Carolina State Bar on August 23, 1980 and is, and was at all times referred to herein, an Attorney at Law licensed to practice in North Carolina, subject to the rules, regulations, and Revised Rules of Professional Conduct and/or the Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

3. During the times relevant to this complaint, Clayton was suspended from the practice of law in the State of North Carolina and maintained a residence in the city of Orlando, Florida.

Upon information and belief, the State Bar alleges:

First Claim for Relief

4. Clayton was administratively suspended from the practice of law in North Carolina in 1985 and has never sought reinstatement.

5. In April 1997 Clayton accepted a position in Orlando, Florida with the law firm of Fisher, Rushmer, Werrenrath, Dickson, Talley & Dunlap, PA (hereafter "law firm").

6. Clayton has never been licensed to practice law in the state of Florida.

7. Clayton represented to the law firm that he was licensed to practice law in the State of Florida.

8. During his period of employment with the firm, Clayton met with clients and held himself out as an attorney licensed in Florida.

9. While employed at the firm, Clayton signed at least one set of pleadings on which he represented his Florida Bar Number to be 0106471.

10. Florida Bar number 0106471 is assigned to an attorney in Tampa, Florida who is not associated with the Fisher law firm.

12. Clayton's actions in holding himself out as an attorney and signing pleadings constituted the unauthorized practice of law in Florida.

13. This matter was investigated by The Florida State Bar. As a result, the Supreme Court of Florida granted a Petition for Permanent Injunction enjoining Clayton from the practice of law in Florida (Case No: SC01-2014).

THEREFORE, the State Bar alleges that Clayton's foregoing actions constitute grounds for discipline pursuant to NCGS Sec. 84-28(b)(2) in that Clayton committed the following violations of the North Carolina Rules of Professional Conduct or Revised Rules of Professional Conduct:

- (a) By misrepresenting to the law firm that he was licensed to practice law in the state of Florida and by unauthorized use of a Florida State Bar Number, Clayton engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c) of the Revised Rules of Professional Conduct and/or rule 1.2 of the Rules of Professional Conduct.
- (b) By holding himself out to the law firm and others that he was licensed to practice law in the state of Florida, by signing pleadings in a Florida case, and by using a Florida Bar Number, Clayton engaged in the unauthorized practice of law where doing so violates the regulation of the legal profession in that jurisdiction, in violation of Rule 5.5(a) of the Revised Rules of Professional Conduct and/or rule 3.1(b) of the Rules of Professional Conduct.

Second Claim for Relief

14. Paragraphs 1- 13 are hereby re-alleged and reincorporated herein.

15. In or about December 1998, Clayton applied to the Florida Board of Law Examiners to be admitted to the practice of law in Florida.

16. The North Carolina State Bar served Clayton in August 2000 with a letter of notice, substance of grievance, and a request to release information regarding his pending Florida Board of Law Examiners application.

17. Clayton received these documents by certified mail, return receipt requested, as evidenced by his signature on the return receipt. A copy of the return receipt is attached hereto as Exhibit 1 and is incorporated by reference as if fully set out herein.

18. Several follow-up letters were sent to Clayton requesting his response.

20. Clayton did not respond to the letter of notice and has not signed the release allowing the North Carolina State Bar access to information submitted on his Florida Board of Law Examiners application.

21. With the assistance of an investigator from the Florida State Bar, Clayton was served personally in November 2000 with a letter of notice, substance of grievance, a request for release of information, and a letter outlining the repercussions of failing to respond to the North Carolina State Bar.

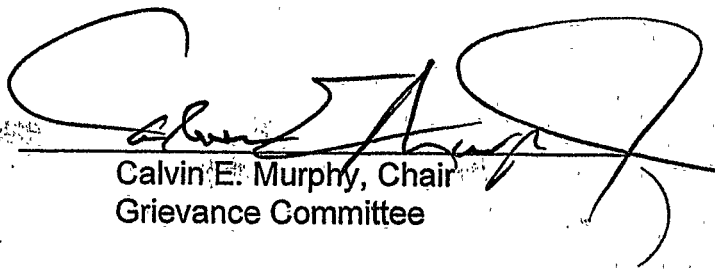
22. Clayton did not respond to personal service of the letter of notice and has not signed the release allowing the North Carolina State Bar access to information submitted on his Florida Board of Law Examiners application.

THEREFORE, the State Bar alleges that Clayton's foregoing actions constitute grounds for discipline pursuant to NCGS Sec. 84-28(b)(2) in that Clayton committed the following violation of the North Carolina Rules of Professional Conduct or Revised Rules of Professional Conduct:

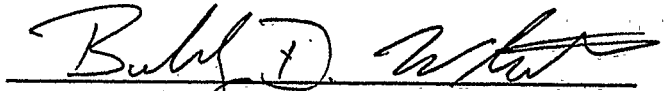
(A) By failing to respond to the Grievance Committee of the North Carolina State Bar, Clayton, knowingly failed to respond to a lawful demand for information from an admissions or disciplinary authority in violation of Rule 8.1 of the Revised Rules of Professional Conduct.

WHEREFORE, the State Bar prays that disciplinary action be taken against Clayton in accordance with NCGS Sec. 84-28(a) and 27 N.C. Admin. Code, Chapter 1, Subchapter B, Sec. .0114, the Rules and Regulations of the North Carolina State Bar, as the evidence on hearing may warrant, that Clayton be taxed with all costs permitted by law in connection with this proceeding, and for such other and further relief as is appropriate.

This the 21st day of December, 2001.



Calvin E. Murphy, Chair
Grievance Committee



Bobby D. White
Deputy Counsel
North Carolina State Bar
P. O. Box 25908
Raleigh, NC 27611-5908
(919) 828-4620 ext. 262

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**N. C. STATE BAR
OFFICE OF THE COUNSEL
P. O. BOX 25908
RALEIGH, N. C. 27611**

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- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

**Mr. Fred B. Clayton
511 Roper Parkway
Ocoee, FL 34761**

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Name) Fred Clayton B. Date of Delivery AUG 22 1999

C. Signature Fred Clayton Agent Addressee

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below: 9800 - 318

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Registered Return Receipt for Merchandise

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4. Restricted Delivery? (Extra Fee) Yes

2. Article Number (Copy from service label)

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PS Form 3811, July 1999

Domestic Return Receipt

102595-99-M-1789